

Province of Saskatchewan

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Surrogate Court Rules  
Devolution of Estates Act  
Sittings of Supreme  
AND  
District Courts for 1915

Compliments of  
Saskatchewan General Trusts Corporation  
REGINA, SASK.



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Surrogate Court Rules  
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**RULES AS TO PROCEDURE AND PRACTICE IN  
THE SURROGATE COURTS, AND IN RELATION  
TO MATTERS TESTAMENTARY, AND LET-  
TERS OF ADMINISTRATION TO THE  
EFFECTS OF DECEASED PERSONS**

**1.** Noncontentious business shall include all common form business as defined by *The Surrogate Courts Act*, and the warning of caveats. Noncontentious business, what to include

**2.** Application for probate or administration may be made by a solicitor or in person. Application, who may make

**3.** Every application to a surrogate court for grant of probate or administration shall be by petition prepared, signed and presented by the applicant or his solicitor. Petition to be signed

Such petition shall in every case show the value of the whole property of the deceased, and shall be accompanied by the statement (in duplicate) under oath provided for by section 6 of *The Succession Duty Act*.

**4.** Upon every application for grant of administration, it shall be shown that search for will or testamentary paper has been made in all places where the deceased usually kept his papers, and in his depositories. The affidavit should be made by the applicant, but the proof may, with the judge's consent, be made otherwise. It shall also be shown that search has been made in the office of the clerk of the proper surrogate court, and the certificate of such clerk shall be sufficient proof of such search having been made. Proof of search

**5.** Unless the judge shall otherwise order, the applicant shall, with the application for grant of administration, submit the bond proposed to be given, with the necessary affidavits of justification and of execution; and in every case such bond shall be made without material erasure or interlineation. Bond to be given

**6.** The necessary affidavits to lead grant, and the usual oath of executors and administrators, may be taken at the time the application for grant is signed, or afterwards at any time before the application is submitted to the judge for his order and direction. The proofs to lead grant may be embodied in one affidavit. When affidavits to be made



Right of  
applicant  
to be estab-  
lished

**7.** The petition, and some one of the affidavits leading to the grant, must establish that no person has a prior right to the petitioner to the grant.

Oath of ad-  
ministration

**8.** The usual oath of administration is to be reduced to writing, and to be subscribed and sworn to by the executors, or administrators, as an affidavit.

Will to be  
marked

**9.** Every will or copy of a will, to which an executor or administrator with the will annexed is sworn, should be marked by such executor or administrator, and by the person before whom he is sworn.

Living  
person may  
deposit will

**10.** A living person may deposit his will, or any codicil thereto, for safe keeping in the office of the clerk for the judicial district in which he is domiciled. Such will or codicil shall be enclosed in an envelope and sealed, and shall be indorsed: "Last Will and Testament of (naming the testator)," or "Codicil to the last Will and Testament (naming the testator)," and shall be signed by the testator.

Wills of  
living  
persons to be  
numbered

**11.** The clerk shall number each such envelope consecutively, in the order in which it is presented, and he shall keep a book in which he shall enter, alphabetically, the names of such persons so depositing a will or codicil, the number of the envelope, and the date of the deposit.

Wills of  
living persons  
not to be  
removed ex-  
cept in  
person or  
by order

**12.** A will or codicil, deposited for safe keeping in the office of the clerk of the surrogate court, shall not be removed therefrom, except by the testator in person, unless an order of the judge permitting such removal shall have been first obtained.

Caveator to  
declare  
nature of  
interest

**13.** The party entering a caveat must declare therein the nature of his interest in the property of the deceased, and state generally the grounds upon which he enters such caveat, and the same shall be signed by the party, or by his solicitor on his behalf, and the proper place mentioned as the address of the party, or of his solicitor, entering the caveat; and no caveat shall have any force or effect, unless the requirements of this rule be in substance complied with.

Caveat in  
force three  
months

**14.** A caveat shall remain in force for the space of three months only, and then expire and be of no effect; but caveats may, subject to the judge's orders, be renewed from time to time.

**15.** In order to clear off a caveat when no appearance has been entered to a warning duly served, an affidavit of the service of the warning, stating the manner of service, and an affidavit of search for appearance and of nonappearance must be filed. Caveat how taken off

**16.** No caveat shall effect any grant made on the day on which the caveat is entered, unless notice of such caveat has been received prior to the grant being sealed. Caveat must be received prior to grant

**17.** A caveator shall be warned at the place mentioned in it as the address of the person who entered it, or of his solicitor. Address for warning

**18.** It shall be sufficient for the warning of a caveat that the clerk of the court, in which application for grant is made, send by post, prepaid and registered, a warning signed by himself bearing the seal of the court, and directed to the person who entered it, or to his solicitor, at the address mentioned in it. Warning, how given

**19.** Any person intending to oppose a grant of probate or administration, for which application has been made to a surrogate court, must within ten days after service appear, either personally or by a solicitor, and enter an appearance in such court, in which appearance the address of the party, or of his solicitor, shall be given. This rule is to apply whether the person intending to oppose the grant has, or has not, been previously warned of a caveat, or served with a citation or summons. Person opposing grant

**20.** When a party intending to oppose a grant has filed an appearance with a clerk, no further steps in respect to such grant shall be taken, except under the special direction of the judge. Appearance

**21.** Citations, summonses or notices issued in the exercise of probate jurisdiction may, in the discretion of the judge, instead of being directed to any person or persons by name be directed generally to the next of kin, creditors and other persons interested in the estate. C.O. 21, R. 593. Citations, etc.

**22.** All citations, summonses or notices issued in the exercise of probate jurisdiction may, by order of the judge, be published in such newspaper or newspapers published in the Citation may be published

province as he may direct, and for such times as he may direct; and in that case no other notice or service thereof shall be necessary, unless the judge shall otherwise direct. C.O. 21, R. 594.

When estate  
may be  
distributed

**23.** Unless otherwise ordered, where an executor or administrator has caused to be published for four successive weeks, in the newspaper nearest the last domicile of the testator or intestate, if the same be a weekly publication, and for one issue weekly for four successive weeks if the same be a daily publication a notice requiring creditors and others to send in to such executor or administrator claims against the estate together with a statement of the securities (if any) held by them within a time to be mentioned in the notice, which shall not be less than five days from the last publication of such notice, such executor or administrator may, at the expiration of the time so fixed, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof, as the case may be, so distributed, to any person of whose claim such executor, or administrator, shall not have had notice at the time of the distribution of the said assets or any part thereof, as the case may be; but nothing in this rule shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively. C.O. 21, R. 595.

Verification  
of claims

**24.** Every creditor, or other person, presenting or sending in a claim to any executor or administrator, shall verify the same by a statutory declaration, and shall therein state whether he holds any security for his claim, or any part thereof, and shall give full particulars of the same; and if such security is on the estate of the debtor, or on the estate of a third party, for whom such debtor is only secondarily liable, he shall put a specified value thereon, and the executor or administrator may either consent to the right of the creditor or person presenting the claim to rank for the claim, after deducting such valuation, or he may require from the person presenting the claim an assignment of the security at the specified value to be paid out of the estate when sufficient is realized therefrom, and in such case,



the difference between the value at which the security is retained by the executor or administrator, and the just amount of the gross claim, shall be the amount for which the creditor or other person shall rank in respect of the estate.

If a creditor or other person holds a claim, based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor or other person shall be considered to hold security within the meaning of this rule, and shall put a value on the liability of the party primarily liable thereon, as being his security for the payment thereof; but, after the maturity of such liability and its nonpayment, he shall be entitled to amend and revalue his claim.

In case a person presenting a claim holds security for his claim, or any part thereof, and he fails to value such security as required by this rule the judge may, on application by the executor or administrator, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed upon such security, and notified in writing to the executor or administrator within a time to be limited by the order, such claimant shall in respect of the claim, or the part thereof for which the security is held, be wholly barred of any right to share in the proceeds of such estate; and if a specified value is not placed on such security, and notified in writing to the executor or administrator according to the exigency of such order, the said claim or the said part, as the case may be, shall be wholly barred as against such estate. C. O. 21, R. 596.

**25.** Every executor or administrator shall, within two years after the grant of letters of administration or probate, or such further time as the judge may allow, file in the office of the clerk of the court for the district wherein the grant was made, a statement and an account verified by his oath showing his administration of the estate, and apply to the judge to have his accounts passed and allowed whereupon a summons may be issued calling upon the creditors, next of kin, and all persons interested in the estate to attend the passing of the accounts.

**26.** The bond to be given upon any grant of administration shall be in form 17 with such variations as circumstances may require. The sureties in such bond are required in all cases to justify; and such justification shall be to an amount

or amounts, which, in the aggregate, shall equal the amount of the penalty of the bond. No clerk or surrogate registrar or solicitor shall become surety to any administration bond.

Under \$200  
one surety

**27.** In ordinary cases, where property is *bona fide* under the value of two hundred dollars, one surety only may be taken to the administration bond.

Notice of re-  
nunciation

**28.** Whenever any renunciation is filed subsequent to notice of application to the registrar, or any alteration is subsequently made in the grant, notice of such renunciation or alteration is to be immediately forwarded by the clerk of the court to the registrar.

S.C. rules as  
to affidavits  
to apply

**29.** The rules promulgated by the judges of the supreme court, with respect to affidavits to be used in that court, *mutatis mutandis*, apply to affidavits to be used in the surrogate court.

#### SURROGATE CLERKS.

Clerk's office  
hours

**30.** Every clerk of the surrogate court shall keep his office open, on such days and during such hours as the office of the clerk of the district court is required to be kept open.

Clerk's books

**31.** Every clerk of the surrogate court shall keep books. He shall keep such books duly indexed from time to time, and shall also keep an index of the names of testators or intestates, and of executors and administrators, which shall be arranged alphabetically. The noncontentious business book shall contain columns for the entry of the sworn value of the personal property, and of the real property.

To file  
papers

**32.** Every clerk shall duly indorse and file all papers received by him, and enter a note thereof, and of every proceeding in the court, in the books to be kept for that purpose.

Number and  
indorse  
applications

**33.** The clerk shall properly number and indorse the date of receipt of all applications for the grant of probate or administration received by him in the order in which they are received, and an entry thereof shall be made in the book to be kept for that purpose, with a number prefixed to correspond with the number on the application.

**34.** Notices of applications to be transmitted to the surrogate registrar, under the 44th section of the Act, are to contain the Christian and surname, residence and addition of applicant, nature of application, and court in which made. Notice of applications

**35.** All papers and communications from clerks to the surrogate registrar shall be transmitted through the post office, the letter or packet to be registered and prepaid. Papers to be transmitted by post

**36.** Every clerk upon receipt of a certificate from the surrogate registrar touching an application made to the court, of which he is clerk, shall forthwith enter a note thereof in the book to be kept for that purpose; and shall, as soon as may be thereafter, lay such application, and all papers in relation to the same, before the judge, for his order and direction thereon. Note of surrogate certificate to be entered

**37.** Every order made by the judge upon, or in reference to, any application, shall be noted by the clerk in the books to be kept for that purpose. Order to be noted

**38.** When a judge makes an order for the grant of probate or administration, the clerk shall record such grant in the "register book," and in case of the grant of probate or letters of administration with the will annexed, an exact copy of the will, and codicil (if any) to which such probate or administration relates, shall be underwritten. If a grant be afterwards revoked, a note of such revocation shall be entered across the record of grant in the register book. Grant to be recorded

**39.** All probates and letters of administration shall be signed by the clerk, and sealed with the seal of the court from which they are issued, and a copy of the will and codicil (if any) annexed to a probate, or to letters of administration, shall be authenticated by the signature of the clerk. Probates, etc., to be signed and sealed

**40.** The list of grants of probates and administration, and of revocation thereof, required under the 15th section of the Act to be sent by clerks to the surrogate registrar, are to contain, in each case, the Christian and surname, residence and addition of the deceased, the time of his death, date of the grant, name, residence and addition of executor or administrator, nature of grant, and in what surrogate court. List of grants, etc., to be sent to registrar

Caveats to  
be numbered

**41.** Every clerk of a surrogate court shall number, indorse and enter all caveats lodged with him, in the same manner as provided in respect to application for grants; and notice thereof shall be sent to the surrogate registrar by the next post after such caveat has been lodged.

#### APPEALS.

Regulations  
governing  
appeals

**42.** Appeals under the 36th section of the Act shall be subject to the following regulations:

1. An affidavit shall be made by the appellant, his solicitor or agent, that the property, goods, chattels, rights and credits to be affected by the order (or decree, as the case may be) appealed against are over the value of two hundred dollars.

2. A notice of such appeal containing the grounds of appeal (which shall be specifically set out) shall be served by the appellant on the opposite party, his solicitor or agent, and filed with the clerk of the surrogate court, together with an affidavit of due service thereof, and also with the affidavit mentioned in the next preceding clause.

3. If such affidavits and notice be so filed within fifteen days next after the order, sentence, judgment, decree or determination appealed against, the appeal shall be held to be duly lodged.

Proceedings  
may be  
stayed on  
appeal

**43.** When an appeal is so lodged, the judge of the surrogate court shall, upon the application of the appellant, order all proceedings in the matter to be stayed; and shall also, upon like application of the appellant, order the clerk of the court forthwith to transmit (at the expense of the appellant) to the local registrar of the supreme court at Regina the documents, instruments, affidavits and papers in the matter appealed, deposited or filed in such surrogate court, together with the judgment or decision of the judge.

Time for  
hearing  
appeal to be  
fixed

**44.** The appellant shall, within ten days after the material mentioned in the next preceding rule has been filed or deposited with the local registrar, apply to the judge of the supreme court in chambers to fix a time and place for the hearing of such appeal, and a copy of the appointment shall be served upon the opposite party or his solicitor.

**45.** In the event of the application mentioned in the last preceding rule not being made to the judge as therein provided, the appeal shall stand dismissed, and the order, sentence, judgment, decree or determination appealed against shall stand affirmed. If time not fixed appeal dismissed

REMOVAL OF CAUSES.

**46.** When a cause or proceeding is removed into the supreme court, under the 33rd and 34th sections of the Act, the judge of the surrogate court shall, upon the application of the party who has obtained the order for removal, in like manner as mentioned in rule 43, direct the papers in the matter to be transmitted to the surrogate registrar. Removing causes to supreme court

**47.** The surrogate registrar, upon receiving such papers, shall forthwith apply for directions to the judge of the supreme court sitting in chambers, who shall give such directions respecting the office of the supreme court, to which the surrogate registrar shall transmit such papers as he may consider advisable under the circumstances of the case. Judge to give directions

THE SURROGATE REGISTRAR.

**48.** The surrogate registrar shall properly number and indorse the date and receipt of all notices of applications to any surrogate court, for the grant of probate or administration received by him, in the order in which they are received; and an entry thereof shall be made in the book to be kept for that purpose, with a number prefixed to correspond with the number on the notice of application; and all caveats and copies of caveats lodged with, and received by the surrogate clerk, shall in like manner be numbered, indorsed, and entry thereof be made in a book to be kept for that purpose. Applications to be numbered

**49.** All communications from the surrogate registrar to clerks of surrogate courts shall be by registered letter. Communications

FEEES.

**50.** The surrogate registrar shall be entitled to take and receive for the performance of business and services under the Act the following fees: Fees of surrogate registrar

- (a) Each search other than search consequent upon receipt of notice under section 44 of The Surrogate Courts Act, if within one year . . . . \$ .50
- (b) Each such search, if beyond one year . . . . . 1.00
- (c) Each certificate other than certificate issued pursuant to section 45 of The Surrogate Courts Act . . . . . .50
- (d) Upon lodgment of a caveat, when filed with the Surrogate Registrar in the first instance .50
- (e) Copies of documents, when prepared in the office, in addition to fee for certificate if required, per folio . . . . . .10
- (f) Examining copies of instruments on file, when prepared by solicitor, in addition to fee for certificate if required, per folio . . . . . .05

**Fees of clerk**

**51.** The clerks of the surrogate courts shall be entitled to take and receive for the performance of duties:

On every grant of probate, or letters of administration, or for resealing of letters of probate or administration, including filing of record all papers, preparing probate or letters, presenting to the judge, and getting signed and recording same.

- (a) When the grant is under section 77 of The Surrogate Courts Act . . . . . \$ .50

In other cases:

- (b) When the sworn gross value of the estate does not exceed \$200.00 . . . . . 1.00
- (c) When such value exceeds \$200.00 but does not exceed \$500.00 . . . . . 3.00
- (d) When such value exceeds \$500.00 but does not exceed \$1,000.00 . . . . . 5.00
- (e) When such value exceeds \$1,000.00 but does not exceed \$2,000.00 . . . . . 7.50
- (f) When such value exceeds \$2,000.00 but does not exceed \$5,000.00 . . . . . 10.00
- (g) When such value exceeds \$5,000.00 but does not exceed \$10,000.00 . . . . . 15.00



- (h) When such value exceeds \$10,000.00 but does not exceed \$20,000.00.....\$20.00
- (i) When such value exceeds \$20,000.00..... 25.00
- (j) Upon lodgment of caveat, including making copy and forwarding same to Surrogate Registrar..... .50
- (k) For receiving will of a living person for safe keeping, including issuing receipt therefor 1.00
- (l) For services not herein specifically provided for, the same fee as is provided for similar services by the tariff for local registrars in the supreme court, when the value of the estate exceeds \$3,000.00.

When the value of the estate is \$3,000.00, or less, the same fee as is provided for similar services by the tariff for clerks of the district courts. (In arriving at the value of the estate, the gross value is to be taken within any deductions for debts or liabilities.)

**52.** Solicitors and counsel, practising in surrogate courts, shall be entitled for the performance of business and services under the Act to the following fees: <sup>Fees of solicitors</sup>

Drawing all necessary papers and proofs to lead grant and obtaining order for probate, or letters of administration in ordinary cases, and taking out same:

- (a) When the property devolving is \$200.00 and under.....\$ 6.00
- (b) Over \$200.00 and under \$500.00..... 8.00
- (c) Over \$500.00 and under \$1,000.00..... 10.00
- (d) Over \$1,000.00 and under \$2,000.00..... 15.00
- (e) Over \$2,000.00..... 25.00
- (f) For preparing affidavits and schedules required by The Succession Duty Act, and regulations thereunder:
  - Where the property devolving is \$2,000.00, or under..... 4.00
  - Over \$2,000.00..... 6.00
- (g) Preparing bonds, when required under The Succession Duty Act and regulations..... 4.00

(2) For all other services the same fee as is provided for similar services by the tariff for solicitors and counsel fees in the supreme court, except where the value of the estate is \$3,000.00, or less, then same fee as is provided for similar services for solicitors and counsel in the district courts.

(The value of the estate is to be ascertained in the same way as is provided in the case of the clerks of the surrogate courts.)

Taxation

**53.** The clerk shall tax costs, subject to appeal to the judge.

#### FORMS.

Forms

**54.** The subjoined forms are to be adopted and followed in the several surrogate courts, as nearly as the circumstances of each case will allow.

In case the application be limited to administration of personal estate, the forms may be modified accordingly.

Construction

**55.** In the construction of these rules, the provisions contained in the second section of the Act shall apply.

#### CONTENTIOUS BUSINESS.

Contentious  
when appear-  
ance entered

**56.** A proceeding shall be adjudged contentious when an appearance has been entered by any person in opposition to the party proceeding, or when a citation or judge's order has been obtained against a party supposed to be interested in a proceeding, or when an application for grant is made on motion and the right to such grant is opposed, or when application is made to revoke a grant, or when there is a contention as to the right to obtain probate or administration, and before contest terminated.

Rules of S. C.  
to apply as to  
appearance

**57.** The practice as to appearance shall, in so far as shall be practicable, be that prescribed by the consolidated rules of practice of the supreme court of Saskatchewan.

Rules of S.C.  
to apply as  
to practice

**58.** In contentious proceedings the practice and procedure shall, as nearly as may be, correspond with the practice and procedure in the supreme court after appearance entered.

Proceedings  
to be pro-  
secuted with  
diligence

**59.** If the party who has entered an appearance shall not use due diligence in the prosecuting of the proceedings, the applicant may obtain a summons calling upon him to

show cause why he should not file a plea within a limited time, or in default thereof why grant should not be made.

**60.** Any person not named in the petition, or in the order of the judge, may intervene and appear thereto, on filing an affidavit showing that he is interested in the estate of the deceased. <sup>Any other person may intervene</sup>

**61.** A party opposing a will may, with his statement of defence, give notice to the party setting up the same, that he merely insists upon the will being proved in solemn form of law, and only intends to cross examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall be subject to liability in respect of costs in the discretion of the judge. <sup>Statement of defence</sup>

**62.** If any defendant make default in filing and delivering a defence, the action may proceed notwithstanding such default; or the plaintiff may obtain a summons, calling upon the defendant to show cause why grant should not be made without further proceedings. <sup>To proceed in default of filing, etc., defence</sup>

**63.** In any case not provided for, and in which there is no analogous practice in the supreme court, the party desiring to pursue a claim, remedy or right, may apply to the judge for direction and order as to the course to be pursued. <sup>Practice S.C. to apply</sup>

**64.** The forms subjoined to these rules, and numbered 35 to 39 respectively, are given as examples of statements of claim and of defence respectively. <sup>Forms</sup>

**65.** These rules may be cited as "The Surrogate Court Rules." <sup>How cited</sup>



# SASKATCHEWAN REVISED STATUTES 1909

## CHAPTER 43

### An Act respecting the Devolution of Estates of Deceased Persons.

#### SHORT TITLE.

1. This Act may be cited as "*The Devolution of Estates Act*." 1907, c. 16, s. 1.

#### INTERPRETATION.

2. In this Act unless the context otherwise requires the expression:

1. "Real property" extends to and includes messuages, lands, rents and hereditaments whether of freehold or any other tenure whatsoever and whether corporeal or incorporeal and any undivided share thereof and any estate, right or interest other than a chattel interest therein;

2. "Personal property" extends to and includes leasehold estates and other chattels real and also moneys, shares of government and other stocks or funds, securities for money not being real property, debts, *choses in action*, rights, credits, goods and all other property whatsoever other than real property as above defined;

3. "Issue" includes all lawful lineal descendants of the intestate. 1907, c. 16, s. 2.

#### LIABILITY FOR DEBTS.

3. When any person dies intestate the real and personal estate of the deceased except in so far as either is excepted by law or enactment shall be chargeable with all legal debts, liabilities and funeral expenses; but the personal property shall be exhausted before resort is made to the real property. 1907, c. 16, s. 3.

#### DISTRIBUTION OF ESTATE OF INTESTATES.

4. If any intestate dies leaving a widow and a child or children or issue one-third of his real and personal property shall go to his widow and the remaining two-thirds shall go

to his child or if more than one to his children in equal shares and in case of the decease of any of his children to such as shall legally represent them such representatives to take the share of the deceased child in equal proportions and if there is no child of the intestate living at the time of his death to the other lineal descendants of such intestate.

(2) If all such descendants are in the same degree of kindred to the intestate they shall take the property equally otherwise they shall take according to the right of representation. 1907, c. 16, s. 4.

Leaving a  
widow and  
no children

**5.** If an intestate dies leaving a widow and no issue his whole estate, real and personal, shall go to his widow. 1907, c. 16, s. 5.

Leaving  
issue and  
no widow

**6.** If an intestate dies leaving a child or children or issue and no widow his whole estate, real and personal, shall go to his child or children in equal shares and if any of the children shall have died leaving issue such issue shall take according to their right of representation. 1907, c. 16, s. 6.

Leaving  
neither  
widow nor  
issue

**7.** If an intestate dies leaving no widow or issue his whole estate, real and personal, shall go to his father. 1907, c. 16, s. 7.

Leaving no  
widow, issue  
or father

**8.** If an intestate dies leaving no widow, issue or father his whole estate, real and personal, shall go to his mother. 1907, c. 16, s. 8.

Leaving no  
issue, father  
or mother

**9.** If an intestate dies leaving no widow or issue or father or mother his whole estate, real and personal, shall go to his brothers and sisters in equal shares, and if any of his brothers or sisters be dead the children of such deceased brother or sister shall take the parent's share. 1907, c. 16, s. 9.

Leaving no  
widow, issue,  
father,  
mother,  
brother,  
sister or  
children of  
any brother  
or sister

**10.** If an intestate dies leaving no widow, issue, father, mother, brother or sister or children of any brother or sister his estate, real and personal, shall go in equal shares to his next to kin in equal degrees excepting where there are two or more collateral kindred in equal degrees but claiming through different ancestors those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor who is more remote; but in no case shall representatives be admitted among collaterals after brother's and sister's children. 1907, c. 16, s. 10.



**11.** If an intestate dies leaving several children or one child and the issue of one or more other children and any surviving child dies under age and not having been married all the property, real and personal, that came to the deceased child by inheritance from such deceased parent shall go in equal shares to the other children of the same parent and to the issue of any such other children who have died by right of representation.

Minor  
child of  
intestate  
dying  
unmarried

(2) If at the death of such child who dies under age and not having been married all the other children of his parent are also dead and any of them shall have left issue all the property, real or personal, that came to such child by inheritance from his parent shall descend to all the issue of the other children of the same parent; and if all the issue are in the same degree of kindred to such child they shall take such property equally otherwise they shall take according to the right of representation. 1907, c. 16, s. 11.

Degrees of  
kindred  
how to be  
computed

#### MARRIED WOMEN.

**12.** The real and personal property of a married woman dying intestate shall be distributed in the same proportions and in the same manner as the real and personal property of a husband dying intestate.

Distribution  
of property  
of a married  
woman  
dying  
intestate

(2) For the purposes of this section the word "husband" shall be substituted for the word "widow" and the word "her" for the word "his" where such words respectively occur in the fourth, fifth, sixth, seventh, eighth, tenth and sixteenth sections of this Act; and the word "mother" for the word "father" in the sixteenth section of this Act. 1907, c. 16, s. 12

Substitution  
of terms

#### DESERTION AND ADULTERY.

**13.** If a wife has left her husband and has lived in adultery after leaving him she shall take no part of his real or personal estate. 1907, c. 16, s. 13.

Wife leaving  
husband and  
being in  
adultery

**14.** If a husband has left his wife and has lived in adultery after leaving her he shall take no part of her real or personal estate. 1907, c. 16, s. 14.

Husband  
leaving wife  
and being  
in adultery

#### GENERAL PROVISIONS.

**15.** For the purposes of this Act degrees of kindred shall be computed according to the rules of the civil law; and the

No distinc-  
tion of half  
blood

kindred of the half blood shall inherit equally with those of the whole blood in the same degree. 1907, c. 16, s. 15.

Posthumous  
children

**16.** Descendants and relatives of the intestate begotten before his death but born thereafter shall in all cases inherit in the same manner as if they had been in the life time of the intestate and had survived him.

(2) Any child born after the death of his father for whom no provision is made in the will of the father shall have the like interest in the real and personal property of his father as if the father had died intestate; and all the devisees and legatees under such will shall abate in proportion their respective devises and bequests.

(3) The share of such posthumous child shall be set out and assigned by the supreme court or other court having jurisdiction so as to affect as little as possible the disposition made by the testator of his property. 1907, c. 16, s. 16.

Cases of  
children who  
have been  
advanced by  
settlement

**17.** If any child of an intestate has been advanced by the intestate by settlement or by portion of real or personal property or both of them and the same has been so expressed by the intestate in writing or so acknowledged in writing by the child the value thereof shall be reckoned for the purposes of this section only as part of the real and personal property of such intestate distributable according to law; and if such advancement is equal or superior to the amount of the share which such child would be entitled to receive of the real and personal property of the deceased as above reckoned then such child and his descendants shall be excluded from any share in the real and personal property of the intestate.

If such  
advancement  
be not equal

(2) If such advancement is not equal to such share such child and his descendants shall be entitled to receive so much only of the personal property and to inherit so much only of the real property of the intestate as is sufficient to make all the shares of the children in such real and personal property and advancement to be equal as nearly as can be estimated. 1907, c. 16, s. 17.

Value of  
property  
advanced  
how  
estimated

**18.** The value of any real or personal property so advanced shall be deemed to be that which has been expressed by the intestate or acknowledged by the child in any instrument in writing otherwise such value shall be estimated according to the value of the property when given. 1907, c. 16, s. 18.

**19.** The maintaining or educating or the giving of money to a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. 1907, c. 16, s. 19.

Education  
or gift not  
advancement

**20.** All such property, real and personal, as is not devised by will shall be distributed as if the testator had died intestate. 1907, c. 16, s. 20.

Estate not  
devised

#### LAND.

**21.** Land in Saskatchewan shall descend to the personal representatives of the deceased owner thereof and be distributed as if it were personal estate. 1907, c. 16, s. 22.

Descent of  
land

**22.** No widow shall be entitled to dower in the land of her deceased husband and no husband shall be entitled to any estate by the curtesy in the land of his deceased wife. 1907, c. 16, s. 23.

No dower  
and no  
tenancy by  
the curtesy

#### SPECIAL PROVISIONS RESPECTING ILLEGITIMATE CHILDREN.

**23.** Illegitimate children shall inherit from the mother as if they were legitimate and through the mother if dead any real or personal property which she would if living have taken by purchase, gift, demise or descent from any other person. 1907, c. 16, s. 24.

Illegitimate  
children to  
inherit from  
mother as if  
they were  
legitimate

**24.** If an intestate being an illegitimate child dies leaving no widow or husband or issue the whole of such intestate's property, real and personal, shall go to his or her mother. 1907, c. 16, s. 25.

Illegitimate  
intestate  
leaving no  
widow or  
husband or  
issue

1910-11

CHAPTER 13

An Act to amend The Devolution of Estates Act.

[Assented to March 23, 1911.]

**H**IS Majesty by and with the advice and consent of the Legislative Assembly of Saskatchewan enacts as follows:

**1.** *The Devolution of Estates Act* is amended by adding thereto the following sections as 11a, 11b, 11c, 11d, 11e, 11f, 11g, 11h, 11i, 11j, 11k.

“**11a.** The widow of a man who dies leaving a will by the terms of which his said widow would in the opinion of the judge before whom the application is made receive less than if he had died intestate leaving a widow and children may apply to the supreme court for relief.

“**11b.** The application may be made by notice of motion in the matter of the estate of the deceased.

“**11c.** The notice of motion shall be served upon the executors named in the will or upon any person to whom a grant of letters of administration with will annexed has been made six clear days before the motion is returnable.

“**11d.** The court may direct any other person to be served with notice of the application and the practice and procedure of the supreme court upon applications in chambers shall so far as the same are found to be applicable apply to proceedings under sections 11a to 11k, both inclusive, of this Act save as herein otherwise provided.

“**11e.** The application shall be supported by an affidavit of the applicant setting forth fully all the facts entitling her to relief under sections 11a to 11k inclusive of this Act.

“**11f.** The court may direct such other evidence to be given in addition to the evidence adduced by the parties to the application and in such manner as shall seem necessary or proper.

“**11g.** On any such application the court may make such allowance to the applicant out of the estate of her husband disposed of by will as shall in the opinion of the judge be equal to what would have gone to such widow under this Act had her deceased husband died intestate leaving a widow and children.

“**11h.** Any such allowance may be by way of an amount payable annually or otherwise or of a lump sum to be paid or of certain property to be conveyed or assigned either absolutely or for life or for a term of years to the applicant or for her use and benefit as the court may see fit; and in the event of a conveyance of property being ordered the court may give all necessary and proper directions for the execution of the conveyance or conveyances either by the executors or administrators or such other person as the court may direct or may grant a vesting order.

“**11i.** Any answer or defence that would have been available to the husband of the applicant in any suit for alimony shall equally be available to his executors or administrators in any application made under the provisions of sections 11a to 11k, both inclusive, of this Act.

“**11j.** Any order made by the court upon the application may be enforced against the estate of the deceased husband in the same way and by the same means as any other judgment or order of the court against the estate of the deceased may be enforced and the court may make such order or direction or interim order or direction as shall seem necessary to secure to the applicant payment out of the estate of such sum or sums as she shall be found entitled to.

“**11k.** No application shall be entertained under sections 11a to 11k, both inclusive, of this Act after six months from the death of the husband.”

# SITTINGS OF THE SUPREME COURT OF SASKATCHEWAN

ASSIGNMENTS OF SITTINGS, JANUARY TO JUNE, 1915.

## *January, 1915.*

12th—Regina. (Jury.)  
12th—Swift Current. (Nonjury.)  
12th—Saskatoon. (Nonjury.)  
19th—Moose Jaw. (Nonjury.)  
26th—Saskatoon. (Jury.)

## *February, 1915.*

2nd—Regina. (Nonjury.)  
9th—Swift Current.  
16th—Melville.  
16th—Court *en banc*.

## *March, 1915.*

23rd—Regina. (Nonjury.)  
23rd—Saskatoon. (Nonjury.)  
23rd—Moose Jaw. (Jury.)  
23rd—Estevan.  
23rd—Weyburn.  
30th—Scott.

## *April, 1915.*

6th—Humboldt.  
6th—Wynyard.  
13th—Battleford.  
13th—Prince Albert.  
20th—Regina. (Nonjury.)  
20th—Kindersley.  
27th—Moosomin.

## *May, 1915.*

4th—Regina. (Jury.)  
4th—Yorkton.  
4th—Arcola.  
4th—Saskatoon. (Jury.)  
11th—Moose Jaw. (Nonjury.)  
18th—Regina. (Nonjury.)  
25th—Saskatoon. (Nonjury.)

## *June, 1915.*

1st—Moose Jaw. (Jury.)  
1st—Kerrobert.  
8th—Court *en banc*.



## SITTINGS OF THE DISTRICT COURT OF SASKATCHEWAN

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### JUDICIAL DISTRICT OF REGINA.

*Regina.*—On the third Tuesday of February, May, September and November.

*South Qu'Appelle.*—On the third Thursday of January and second Thursday of June.

*Indian Head.*—On the fourth Tuesday of January and the third Tuesday of June.

*Milestone.*—On the first Thursday of February and second Thursday of July.

*Sedley.*—On the first Tuesday of April and October.

*Lumsden.*—On the second Tuesday of April and October.

*Strassburg.*—On the second Tuesday of May and fourth Tuesday of October.

*Craik.*—On the second Tuesday of January and November and third Tuesday of April.

*Davidson.*—On the first Tuesday of May and November.

### JUDICIAL DISTRICT OF MOOSE JAW.

*Moose Jaw.*—On the second Tuesday of January and October and fourth Tuesday of March and June.

Small Debt Sittings on the fourth Tuesday of each month.

*Elbow.*—On the second Tuesday of March and fourth Tuesday of September.

*Rouleau.*—On the first Tuesday of February and July.

*Tugaske.*—On the third Tuesday of September and the first Tuesday of December.

*Mortlach.*—On the third Tuesday of April and the first Tuesday of November.

*Outlook.*—On the second Tuesday of March and the third Tuesday of November.

*Gravelbourg.*—On the first Tuesday of April and October.

*Chaplin.*—On the second Tuesday of February and the third Friday of September.

*Hawarden.*—On the second Tuesday of April.

## JUDICIAL DISTRICT OF WEYBURN.

*Weyburn*.—On the second Tuesday of January, first Tuesday of April and October and fourth Tuesday of June.

*Assiniboia*.—On the third Tuesday of May and November.

*Viceroy*.—On the third Tuesday of April.

*Radville*.—On the fourth Tuesday of September.

*Fillmore*.—On the first Tuesday of November.

*Bengough*.—On the fourth Tuesday of April.

## JUDICIAL DISTRICT OF MELVILLE.

*Melville*.—On the third Tuesday of January, first Tuesday of April and October and first Tuesday of July.

*Kelliher*.—On the fourth Thursday of January and May.

*Neudorf*.—On the second Monday of March and second Wednesday of October, both at 2 p.m.

*Abernethy*.—On the fourth Monday of April and October, both at 2 p.m.

*Cupar*.—On the fourth Wednesday of April and third Monday of November, both at 3.30 p.m.

*Balcarres*.—On the first Wednesday of May and fourth Wednesday of October.

*Spy Hill*.—On the first Friday of July, at 2 p.m.

All sittings of the District Court in the Judicial District Melville to open on local time.

## JUDICIAL DISTRICT OF MOOSOMIN.

*Moosomin*.—On the first Tuesday of February, second Tuesday of April, the second Tuesday of July and third Tuesday of October.

*Grenfell*.—On the third Tuesday of May and second Tuesday of December.

*Esterhazy*.—On the fourth Monday of January and second Monday of October, both at 1 p.m.

*Wolseley*.—On the second Tuesday of January, fifth Wednesday of March and fourth Tuesday of September.

*Whitewood*.—On the fifth Monday of March and second Tuesday of November.

*Kipling*.—On the second Tuesday of May and fifth Tuesday of November.

*Broadview*.—On the third Tuesday of April and fourth Tuesday of November.

All sittings of the District Court in the Judicial District of Moosomin to open on local time.

#### JUDICIAL DISTRICT OF CANNINGTON.

*Arcola*.—On the third Tuesday of January and April and the first Tuesday of July and October.

*Redvers*.—On the first Tuesday of March and November.

*Carlyle*.—On the second Tuesday of March and November.

*Stoughton*.—On the third Tuesday of March and November.

*Wawota*.—On the second Tuesday of June.

#### JUDICIAL DISTRICT OF ESTEVAN.

*Estevan*.—On the first Tuesday of March, June, October and December.

*Oxbow*.—On the second Tuesday of January and July.

*Carnduff*.—On the first Tuesday of February and fourth Tuesday of September.

*Macoun*.—On the first Tuesday of May and November.

*Bromhead*.—On the second Tuesday of May and November.

#### JUDICIAL DISTRICT OF SWIFT CURRENT.

*Swift Current*.—On the third Tuesday of January and October, second Tuesday of April and first Tuesday of June.

*Maple Creek*.—On the second Tuesday of February, third Tuesday of May and first Tuesday of October.

*Shaunavon*.—On the first Tuesday of May.

*Gull Lake*.—On the first Tuesday of March and second Tuesday of December.

*Morse*.—On the first Tuesday of April.

*Cabri*.—On the fourth Tuesday of September at 2 p.m.

*Aneroid*.—On the second Tuesday of July.

*Woodrow*.—On the fourth Wednesday of May.

*Ponteix*.—On the second Tuesday of May.

## JUDICIAL DISTRICT OF KINDERSLEY.

*Kindersley*.—On the second Tuesday of April and first Tuesday of October.

*Alsask*.—On the first Tuesday of June.

*Fiske*.—On the fourth Tuesday of March.

*Netherhill*.—On the first Tuesday of April.

*Elrose*.—On the third Tuesday of June.

*Macrorie*.—On the fourth Tuesday of May.

*Marengo*.—On the fourth Tuesday of September.

## JUDICIAL DISTRICT OF KERROBERT.

*Kerrobert*.—On the first Tuesday of February and October and third Tuesday of May.

*Zealandia*.—On the second Tuesday of June.

*Rosetown*.—On the fourth Tuesday of October.

## JUDICIAL DISTRICT OF SCOTT.

*Scott*.—On the fourth Tuesday of January and the third Tuesday of June.

*Macklin*.—On the third Tuesday of February.

*Wilkie*.—On the fourth Thursday of February and first Tuesday of November.

*Biggar*.—On the third Tuesday of March.

*Salvador*.—On the fourth Tuesday of June.

## JUDICIAL DISTRICT OF BATTLEFORD.

*Battleford*.—On the fourth Tuesday of January and third Tuesday of March, June, September and November.

*North Battleford*.—On the first Tuesday of February, June, October and December.

*Lloydminster*.—On the third Tuesday of February, fourth Tuesday of June and third Tuesday of December.

*Radisson*.—On the second Tuesday of April and fourth Tuesday of November.

*Edam*.—On the third Tuesday of May and October.

*Paynton*.—On the first Tuesday of July.

*Cut Knife*.—On the fourth Tuesday of September.

*Hafford*.—On the first Tuesday of November.

## JUDICIAL DISTRICT OF SASKATOON.

*Saskatoon*.—On the second Tuesday of January and October and first Tuesday of April and July.

*Hanley*.—On the third Tuesday of March and fourth Tuesday of September.

*Imperial*.—On the first Thursday of May.

*Watrous*.—On the first Tuesday of May.

*Perdue*.—On the third Tuesday of February.

*Young*.—On the second Tuesday of March

## JUDICIAL DISTRICT OF WYNYARD.

*Wynyard*.—On the third Tuesday of November and first Tuesday of April.

*Sheho*.—On the third Tuesday of April.

*Lanigan*.—On the first Tuesday of May.

*Govan*.—On the third Tuesday of May.

*Nokomis*.—On the first Tuesday of November.

*Semans*.—On the first Tuesday of October.

## JUDICIAL DISTRICT OF HUMBOLDT.

*Humboldt*.—On the second Tuesday of February, June and November.

*Invermay*.—On the first Wednesday of February and July.

*Wadena*.—On the second Tuesday of March and October.

*Vonda*.—On the third Tuesday of April and October.

*Watson*.—On the third Tuesday of May.

*Quill Lake*.—On the first Tuesday of December.

## JUDICIAL DISTRICT OF PRINCE ALBERT.

*Prince Albert*.—On the first Tuesday of February, April, June and November and third Tuesday of September.

*Rosthern*.—On the third Tuesday of January, April, June and October.

*Melfort*.—On the second Tuesday of March and October.

*Kinistino*.—On the first Tuesday of March and October.

*Duck Lake*.—On the fourth Tuesday of April and September.

*Tisdale*.—On the second Tuesday of May and November.

*Marcelin*.—On the fourth Tuesday of May.

*Shellbrook*.—On the third Tuesday of May and November.

JUDICIAL DISTRICT OF YORKTON.

*Yorkton*.—On the second Tuesday of February, third Tuesday of May and September and fourth Tuesday of November.

*Langenburg*.—On the third Wednesday of January and June.

*Saltcoats*.—On the fourth Wednesday of January and June.

*Kamsack*.—On the second Wednesday of March and October.

*Canora*.—On the third Tuesday of March, first Tuesday of June and second Tuesday of November.

*Theodore*.—On the third Tuesday of April and fourth Tuesday of October.

*Calder*.—On the first Wednesday of July.

*Pelly*.—On the third Wednesday of October.

*McNutt*.—On the first Tuesday of November.









